

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MOISES RONE,	:	
	:	
Petitioner,	:	Civ. No. 15-3798 (KM)
	:	
v.	:	MEMORANDUM AND ORDER
	:	
ATTORNEY GENERAL OF THE UNITED	:	
STATES, et al.,	:	
	:	
Respondents.	:	
	:	

Petitioner, Moises Rone, is an immigration detainee currently detained at the Hudson County Correctional Center in Kearny, New Jersey. He is proceeding *pro se* with a petition for writ of habeas corpus pursuant to § 2241. On June 8, 2015, this case was transferred to this District from the Southern District of New York.

The proper sole respondent in this case is Oscar Aviles, who is the warden of the Hudson County Correctional Center. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004). Therefore, the petition will be dismissed with prejudice as to respondents the Attorney General of the United States, Christopher Shanahan, Jeh Johnson and the Department of Homeland Security.

Mr. Rone challenges his current immigration detention in his federal habeas petition.

“Federal courts have habeas jurisdiction to examine the statutory and constitutional bases for an immigration detention unrelated to a final order of removal.” *Ufele v. Holder*, 473 F. App’x 144, 146 (3d Cir. 2012) (per curiam) (citing *Demore v. Kim*, 538 U.S. 510, 517-18 (2003)); *see also* *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 226 (3d Cir. 2011). In accordance with Rule 4 of the Rules Governing Section 2254 Cases, applicable to § 2241 cases through Rule 1(b) of the Rules Governing Section 2254 Cases, this Court has screened Mr. Rone’s habeas petition for dismissal and determined that dismissal without an answer and the record on this issue is not warranted. In

addition to any arguments that respondent may make in the answer, respondent shall specifically address what impact, if any, *Chavez-Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469 (3d Cir. 2015), has on Mr. Rone's habeas petition.

Accordingly, IT IS this 11th day of June, 2015,

ORDERED that the habeas petition is dismissed with prejudice as to respondents the Attorney General of the United States, Christopher Shanahan, Jeh Johnson and the Department of Homeland Security; and it is further

ORDERED that the Clerk shall serve a copy of the petition (Dkt. No. 1.) and this Order upon respondent Aviles by regular mail, with all costs of service advanced by the United States; and it is further

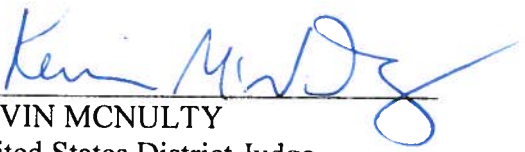
ORDERED that the Clerk shall forward a copy of the petition (Dkt. No. 1.) and this Order to the Chief, Civil Division, United States Attorney's Office, at the following email address: USANJ-HabeasCases@usdoj.gov; and it is further

ORDERED that within thirty (30) days of the date of the entry of this Order, respondent shall file and serve an answer which responds to the allegations and grounds in the petition and which includes all affirmative defenses respondent seeks to invoke, in addition to any other arguments respondent may make, the answer shall specifically address what impact, if any, *Chavez-Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469 (3d Cir. 2015) has on this case; and it is further

ORDERED that respondent shall file and serve with the answer certified copies of all documents necessary to resolve petitioner's claim(s) and affirmative defenses; and it is further

ORDERED that within thirty (30) days of receipt of the answer, petitioner may file a reply to the answer; and it is further

ORDERED that within seven (7) days of petitioner's release, by parole or otherwise, respondent shall electronically file a written notice of the same with the Clerk.



KEVIN MCNULTY
United States District Judge